

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1198

53rd Legislature
1993 Regular Session

Passed by the House April 20, 1993
Yeas 97 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 15, 1993
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1198** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1198

AS AMENDED BY THE SENATE

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By House Committee on Human Services (originally sponsored by Representatives Leonard, Padden, Appelwick, King, Brough, Johanson, Jones, Roland, Long, G. Cole, Veloria, Horn, Karahalios, Springer, Wood, Flemming, Kessler, Lemmon and Pruitt)

Read first time 03/03/93.

1 AN ACT Relating to recommendations of the juvenile issues task
2 force; amending RCW 13.40.020; and adding a new section to chapter
3 13.40 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 13.40.020 and 1990 1st ex.s. c 12 s 1 are each amended
6 to read as follows:

7 For the purposes of this chapter:

8 (1) "Serious offender" means a person fifteen years of age or older
9 who has committed an offense which if committed by an adult would be:

10 (a) A class A felony, or an attempt to commit a class A felony;

11 (b) Manslaughter in the first degree; or

12 (c) Assault in the second degree, extortion in the first degree,
13 child molestation in the second degree, kidnapping in the second
14 degree, robbery in the second degree, residential burglary, or burglary
15 in the second degree, where such offenses include the infliction of
16 bodily harm upon another or where during the commission of or immediate
17 withdrawal from such an offense the perpetrator is armed with a deadly
18 weapon or firearm as defined in RCW 9A.04.110;

1 (2) "Community service" means compulsory service, without
2 compensation, performed for the benefit of the community by the
3 offender as punishment for committing an offense. Community service
4 may be performed through public or private organizations or through
5 work crews;

6 (3) "Community supervision" means an order of disposition by the
7 court of an adjudicated youth not committed to the department. A
8 community supervision order for a single offense may be for a period of
9 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
10 one year for other offenses ~~((and))~~. Community supervision is an
11 individualized program comprised of one or more of the following:

12 (a) Community-based sanctions;

13 (b) Community-based rehabilitation;

14 (c) Monitoring and reporting requirements;

15 (4) Community-based sanctions may include one or more of the
16 following:

17 (a) A fine, not to exceed one hundred dollars;

18 (b) Community service not to exceed one hundred fifty hours of
19 service;

20 ~~((+e))~~ (5) "Community-based rehabilitation" means one or more of
21 the following: Attendance of information classes;

22 ~~((d) Counseling; or~~

23 ~~(e) Such other services to the extent funds are available for such~~
24 ~~services,))~~ counseling, outpatient substance abuse treatment programs,
25 outpatient mental health programs, anger management classes, or other
26 services; or attendance at school or other educational programs
27 appropriate for the juvenile as determined by the school district.
28 Placement in community-based rehabilitation programs is subject to
29 available funds;

30 (6) "Monitoring and reporting requirements" means one or more of
31 the following: Curfews; requirements to remain at home, school, work,
32 or court-ordered treatment programs during specified hours;
33 restrictions from leaving or entering specified geographical areas;
34 requirements to report to the probation officer as directed and to
35 remain under the probation officer's supervision; and other
36 conditions~~((7))~~ or limitations as the court may require which may not
37 include confinement;

38 ~~((+4))~~ (7) "Confinement" means physical custody by the department
39 of social and health services in a facility operated by or pursuant to

1 a contract with the state, or physical custody in a detention facility
2 operated by or pursuant to a contract with any county. The county may
3 operate or contract with vendors to operate county detention
4 facilities. The department may operate or contract to operate
5 detention facilities for juveniles committed to the department.
6 Pretrial confinement or confinement of less than thirty-one days
7 imposed as part of a disposition or modification order may be served
8 consecutively or intermittently, in the discretion of the court and may
9 be served in a detention group home, detention foster home, or with
10 electronic monitoring. Detention group homes and detention foster
11 homes used for confinement shall not also be used for the placement of
12 dependent children. Confinement in detention group homes and detention
13 foster homes and electronic monitoring are subject to available funds;

14 ((+5)) (8) "Court", when used without further qualification, means
15 the juvenile court judge(s) or commissioner(s);

16 ((+6)) (9) "Criminal history" includes all criminal complaints
17 against the respondent for which, prior to the commission of a current
18 offense:

19 (a) The allegations were found correct by a court. If a respondent
20 is convicted of two or more charges arising out of the same course of
21 conduct, only the highest charge from among these shall count as an
22 offense for the purposes of this chapter; or

23 (b) The criminal complaint was diverted by a prosecutor pursuant to
24 the provisions of this chapter on agreement of the respondent and after
25 an advisement to the respondent that the criminal complaint would be
26 considered as part of the respondent's criminal history;

27 ((+7)) (10) "Department" means the department of social and health
28 services;

29 ((+8)) (11) "Detention facility" means a county facility for the
30 physical confinement of a juvenile alleged to have committed an offense
31 or an adjudicated offender subject to a disposition or modification
32 order;

33 (12) "Diversions unit" means any probation counselor who enters into
34 a diversion agreement with an alleged youthful offender, or any other
35 person or entity except a law enforcement official or entity, with whom
36 the juvenile court administrator has contracted to arrange and
37 supervise such agreements pursuant to RCW ((13.04.040, as now or
38 hereafter amended,)) 13.40.080, or any person or entity specially

1 funded by the legislature to arrange and supervise diversion agreements
2 in accordance with the requirements of this chapter;

3 ~~((+9))~~ (13) "Institution" means a juvenile facility established
4 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

5 ~~((+10))~~ (14) "Juvenile," "youth," and "child" mean any individual
6 who is under the chronological age of eighteen years and who has not
7 been previously transferred to adult court;

8 ~~((+11))~~ (15) "Juvenile offender" means any juvenile who has been
9 found by the juvenile court to have committed an offense, including a
10 person eighteen years of age or older over whom jurisdiction has been
11 extended under RCW 13.40.300;

12 ~~((+12))~~ (16) "Manifest injustice" means a disposition that would
13 either impose an excessive penalty on the juvenile or would impose a
14 serious, and clear danger to society in light of the purposes of this
15 chapter;

16 ~~((+13))~~ (17) "Middle offender" means a person who has committed an
17 offense and who is neither a minor or first offender nor a serious
18 offender;

19 ~~((+14))~~ (18) "Minor or first offender" means a person sixteen
20 years of age or younger whose current offense(s) and criminal history
21 fall entirely within one of the following categories:

22 (a) Four misdemeanors;

23 (b) Two misdemeanors and one gross misdemeanor;

24 (c) One misdemeanor and two gross misdemeanors;

25 (d) Three gross misdemeanors;

26 (e) One class C felony except manslaughter in the second degree and
27 one misdemeanor or gross misdemeanor;

28 (f) One class B felony except: Any felony which constitutes an
29 attempt to commit a class A felony; manslaughter in the first degree;
30 assault in the second degree; extortion in the first degree; indecent
31 liberties; kidnapping in the second degree; robbery in the second
32 degree; burglary in the second degree; residential burglary; vehicular
33 homicide; or arson in the second degree.

34 For purposes of this definition, current violations shall be
35 counted as misdemeanors;

36 ~~((+15))~~ (19) "Offense" means an act designated a violation or a
37 crime if committed by an adult under the law of this state, under any
38 ordinance of any city or county of this state, under any federal law,
39 or under the law of another state if the act occurred in that state;

1 (~~(16)~~) (20) "Respondent" means a juvenile who is alleged or
2 proven to have committed an offense;

3 (~~(17)~~) (21) "Restitution" means financial reimbursement by the
4 offender to the victim, and shall be limited to easily ascertainable
5 damages for injury to or loss of property, actual expenses incurred for
6 medical treatment for physical injury to persons, lost wages resulting
7 from physical injury, and costs of the victim's counseling reasonably
8 related to the offense if the offense is a sex offense. Restitution
9 shall not include reimbursement for damages for mental anguish, pain
10 and suffering, or other intangible losses. Nothing in this chapter
11 shall limit or replace civil remedies or defenses available to the
12 victim or offender;

13 (~~(18)~~) (22) "Secretary" means the secretary of the department of
14 social and health services;

15 (~~(19)~~) (23) "Services" mean services which provide alternatives
16 to incarceration for those juveniles who have pleaded or been
17 adjudicated guilty of an offense or have signed a diversion agreement
18 pursuant to this chapter;

19 (~~(20)~~) (24) "Sex offense" means an offense defined as a sex
20 offense in RCW 9.94A.030;

21 (~~(21)~~) (25) "Sexual motivation" means that one of the purposes
22 for which the respondent committed the offense was for the purpose of
23 his or her sexual gratification;

24 (~~(22)~~) (26) "Foster care" means temporary physical care in a
25 foster family home or group care facility as defined in RCW 74.15.020
26 and licensed by the department, or other legally authorized care;

27 (~~(23)~~) (27) "Violation" means an act or omission, which if
28 committed by an adult, must be proven beyond a reasonable doubt, and is
29 punishable by sanctions which do not include incarceration.

30 NEW SECTION. Sec. 2. A new section is added to chapter 13.40 RCW
31 to read as follows:

32 The department shall within existing funds collect such data as may
33 be necessary to monitor any disparity in processing or disposing of
34 cases involving juvenile offenders due to economic, gender, geographic,
35 or racial factors that may result from implementation of section 1,
36 chapter . . ., Laws of 1993 (section 1 of this act). Beginning
37 December 1, 1993, the department shall report annually to the
38 legislature on economic, gender, geographic, or racial

1 disproportionality in the rates of arrest, detention, trial, treatment,
2 and disposition in the state's juvenile justice system. The report
3 shall cover the preceding calendar year. The annual report shall
4 identify the causes of such disproportionality and shall specifically
5 point out any economic, gender, geographic, or racial
6 disproportionality resulting from implementation of section 1, chapter
7 . . ., Laws of 1993 (section 1 of this act).

8 NEW SECTION. **Sec. 3.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

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